
**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DANIEL BINDERUP, *et al*

Plaintiffs

v.

COL. ROBERT EVANCHICK

Defendant

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Civil Action No. 1:21-CV-710

DECLARATION OF DANIEL F. MILLER

I, Daniel F. Miller, am competent to state and declare the following based on my personal knowledge:

1. I, Daniel F. Miller,
 - a. Am a citizen of the United States;
 - b. Am over the age of 21;
 - c. Am not under indictment;
 - d. Have never been convicted of a felony or misdemeanor crime of domestic violence;
 - e. Have only once been convicted of a crime punishable by more than one (1) year;
 - f. Am not a fugitive from justice;
 - g. Am not an unlawful user of, or addicted to, any controlled substance;

- h. Have not been adjudicated a mental defective or been committed to a mental institution;
 - i. Have not been discharged from the Armed Forces under dishonorable conditions;
 - j. Have never renounced my citizenship; and,
 - k. Am not the subject of a restraining order relating to an intimate partner.
2. I am a resident and citizen of the Commonwealth of Pennsylvania.
 3. I am a member of Firearms Policy Coalition and the Second Amendment Foundation.
 4. In 1998, I pled guilty to 18 Pa.C.S. § 4904(a)(2) – unsworn falsifications to authorities ¹ and 75 Pa.C.S. § 7122(3) – use of an altered PennDOT window tint exemption certificate, as a result of my use of the altered certificate during a court proceeding and for which, I received a year of probation, plus court costs and restitution.
 5. I have never been charged with nor convicted of any other misdemeanor or felony offense, prior to or since that charging in 1998.

¹ As noted by the court in *Miller*, this offense is “a misdemeanor of the third degree punishable

6. I am not disqualified from exercising my Second Amendment rights, as held by the District Court in *Miller v. Sessions*, 356 F.Supp.3d 472 (E.D. Pa. 2019).
7. I lawfully own and possess rifles, shotguns, and handguns.
8. I have desired and continue to desire to exercise my right to bear arms by carrying loaded, operable firearms on my person, in public, lawful purposes including self-defense.
9. The constitutionally protected conduct I seek to engage in while exercising my right to bear arms exceeds the limited exceptions contained in 18 Pa.C.S. §§ 6106, 6107, and 6108.
10. In April of 2019, I applied for a license to carry firearms with my County Sherriff as required by 18 Pa. C.S. § 6109 and was denied that license the Defendant's Pennsylvania State Police ("PSP").
11. As I was unaware of any putative disability, I subsequently filed a Pennsylvania Instant Check System Challenge Form, to which I believe the Defendant's PSP responded on or about June 24, 2019, stating that I was denied, as my 1998 conviction for use of an altered PennDOT window tint exemption certificate was putatively prohibiting under 18 Pa.C.S. § 6109(e)(1)(viii), as a crime punishable by imprisonment for a term exceeding one year.

12. It is my present intention and desire to carry loaded and unloaded, operable firearms, including a handgun, on my person and in motor vehicles, in public for all lawful purposes including self-defense and in case of confrontation, without being subjected to criminal sanction and the loss of my liberty and rights under Defendant's laws.
13. It is also my present intention and desire to be able to lawfully transport and carry all of my firearms within the Commonwealth, including but not limited to being able to:
 - a. During an emergency proclaimed by a State or municipal governmental executive:
 - i. Purchase a firearm from a Federal Firearm Licensee and transport that unloaded firearm, while on the public streets and public property, to:
 - A. My home or other place of abode;
 - B. To another Federal Firearm Licensee;
 - C. A range or other location providing for target shooting;
 - D. A place of business;
 - E. A friend's house; and,
 - F. A place where I desire to hunt;

- ii. With an unloaded firearm, travel on the public streets and public property from any of the locations specified in ¶ 13, a., i., *supra*, to:
 - A. A range or other location providing for target shooting;
 - B. A Federal Firearm Licensee;
 - C. A place of business;
 - D. A place of abode;
 - E. A friend's house; and,
 - F. A place where I desire to hunt;
 - iii. With an unloaded firearm, while traveling on the public streets and public property, stop for a bathroom breaks, food, coffee, or to pick up or drop off a friend, when going to or from any of the locations specified in ¶¶ 13, a., i and ii, *supra*;
- b. In the absence of an emergency proclaimed by a State or municipal governmental executive, with an unloaded firearm, stop for bathroom breaks, food, non-alcoholic drinks and coffee, or to pick up or drop off a friend, when going to or from:
- i. a range;
 - ii. target shooting;
 - iii. a place of purchase to my home or place of business;

- iv. a place of repair, sale or appraisal;
 - v. a place of abode or business to another; and,
 - vi. a place where I desire to hunt.
- c. In the absence of an emergency proclaimed by a State or municipal governmental executive, with an unloaded firearm, travel throughout the Commonwealth to and from lawful places, where I may otherwise lawfully possess and carry a firearm, including, but not limited to:
 - i. friends' houses;
 - ii. businesses; and,
 - iii. from a successful hunt to a business that processes/butchers the successfully taken game.
- d. Regardless of whether during or in the absence of an emergency proclaimed by a State or municipal governmental executive, travel in a mode of transportation and carry on the public streets and public property throughout the Commonwealth a loaded, operable firearm on my person for self-defense, defense of my family and others, and in case of confrontation in public requiring defensive action, including transporting and carrying that loaded and operable firearm to, but not limited to:

- i. grocery stores, including ones that I frequent, such as ShopRite of Bensalem at 2200 Bristol Rd, Bensalem, PA 19020, which is approximately 5 miles from my home; and, GIANT at 4001 New Falls Rd, Levittown, PA 19056, which is approximately 4 miles from my home;
- ii. stores, including ones that I frequent, such as Penn Jersey Auto Store at 4912 New Falls Rd, Levittown, PA 19056, which is approximately 4 miles from my home;
- iii. malls, including ones that I frequent, such Neshaminy Mall at 707 Neshaminy Mall, Bensalem, PA 19020, which is approximately 6.5 miles from my home; Oxford Valley Mall at 2300 Lincoln Hwy, Langhorne, PA 19047, which is approximately 8 miles from my home; and, The Crossings Premium Outlets at 1000 Premium Outlets Dr, Tannersville, PA 18372, which is approximately 81 miles from my home;
- iv. restaurants, including ones that I frequent, such as Macaroni's at 9315 Old Bustleton Ave, Philadelphia, PA 19115, which is approximately 11.2 miles from my home; Cafe Antonio Bistro & Bar at 107 E Trenton Ave, Morrisville, PA 19067, which is approximately 12.6 miles from my home; The Grey Stone Fine

Food and Spirits at 552 Washington Crossing Rd, Newtown, PA 18940, which is approximately 14 miles from my home; and, Louie's Prime Steak House at 244 Lake Harmony Rd, Lake Harmony, PA 18624, which is approximately 90 miles from my home;

- v. friends' and family members' houses, including ones that I frequent, such as my fiancé's sister in Tunkhannock, PA 18657, which is approximately 114 miles from my home; and, my good friend, Keith Bertam, in Levittown, PA 19054, approximately 5 miles from my home; and,
 - vi. Philadelphia with my fiancé to pick up the rent from her brother, whom rents a house from her in Philadelphia, and for dinner and other activities with a great friend of mine, Richard Castagna, who lives in Philadelphia, PA 19145.
- e. Due to the location of my home in relation to all the aforementioned locations, I am unable to transport or carry a firearm on my person, whether concealed or openly, while walking or otherwise traversing on foot the distances between my home and those locations, especially in the event of any purchases at those locations and the need to additionally carry those purchases back to my home.


14. However, as a result of Defendant's active enforcement of Sections 6109(d)(2), and (e)(1)(viii), Defendant is precluding me from obtaining a license to carry firearms and therefore subjecting me to the transportation and carry restrictions specified in 18 Pa. C.S. §§ 6106, 6107, and 6108, which Defendant is also actively enforcing and which criminalizes my desired conduct to lawfully carry or otherwise transport firearms to and from the aforementioned locations and for the aforementioned activities, including for self-defense and in case of confrontation in public requiring defensive action.
15. As a result of Defendant's current enforcement of 18 Pa.C.S. §§ 6106, 6107, and 6108, if I carry or otherwise transport a loaded or unloaded firearm on my person and in motor vehicles, in public, for lawful purposes including self-defense, I will be subject to arrest, prosecution, imprisonment, loss of liberty, and loss of my Second Amendment rights.
16. I am a responsible, law-abiding, peaceable citizen with no history of violent behavior, mental health disqualification, or other conduct that would suggest I pose any threat or danger to myself or others.
17. I have to this time abstained from carrying or otherwise transporting a loaded and unloaded firearm on my person and in motor vehicles, in public, for lawful purposes including self-defense, based on my reasonable fear of

arrest, prosecution, incarceration, and/or fine under the Commonwealth's laws as they are actively being enforced by Defendant.

18. I intend to carry or otherwise transport a loaded and unloaded firearm on my person and in motor vehicles, in public, for lawful purposes including self-defense, as all law-abiding adult citizens are constitutionally entitled to.
19. Unless and until an injunction issues preventing the enforcement of the Commonwealth's criminal laws preventing me from carrying and otherwise transporting firearms in public, and/or preventing the enforcement of 18 Pa.C.S. §§ 6109(d)(2), (e)(1)(viii) and Defendant's policies and enforcement practices denying me a license to carry under § 6109, I face arrest, prosecution, incarceration, fine, loss of liberty, and loss of my Second Amendment rights for violating the Commonwealth's criminal laws preventing me from carrying and otherwise transporting firearms in public.

I declare under penalty of perjury that the foregoing is true and accurate to the best of my information, knowledge and belief.

Date: August 11, 2022


Daniel F. Miller